



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 13th November, 2024
Pronounced on: 07th January, 2025

+ W.P.(C) 3026/2015, CM APPL. 5413/2015, CM APPL. 55669/2022
TELECOM REGULATORY AUTHORITY OF INDIA

.....Petitioner

Through: Mr. Ankoor Sood, Advocate

versus

AKSHAY KUMAR MALHOTRA

.....Respondent

Through: In person.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Telecom Regulatory Authority of India/ TRAI, challenges the order dated 06th June, 2024,¹ issued by the Central Information Commission.² The controversy stems from three RTI applications filed by the Respondent seeking information regarding complaints he lodged with his Telecom Service Provider,³ Vodafone. By the impugned order, the CIC has directed TRAI to requisition information from Vodafone pertaining to the Respondent's complaints and provide the same to the Respondent under the provisions of the Right to Information Act, 2005.⁴ The Petitioner argues that this directive misconstrues the regulatory framework established under the

¹ "impugned order"

² "CIC"

³ "TSP"

⁴ "RTI Act"



Telecom Regulatory Authority of India Act, 1997,⁵ and wrongly expands the scope of TRAI's powers, rendering the order legally unsustainable.

Factual Background

2. The factual background leading to the initiation of the present proceedings is as follows:

2.1 The Respondent, Mr. Akshay Kumar Malhotra, registered his mobile number under the 'Fully Blocked Category' of the National Consumer Register for the National Do Not Call Registry. Despite requesting activation of the 'Fully Blocked- Do Not Disturb'⁶ service, the TSP, *i.e.*, Vodafone allegedly altered the DND status of his mobile number without consent. Frustrated by the inaction on his formal complaints to the TSP, the Respondent sought recourse under the RTI Act to obtain details about the status of his complaints.

2.2 The Respondent submitted an RTI application dated 12th October, 2011 to the Petitioner, seeking information on 25 specific items related to the unsolicited voice calls and messages received by him, as well as the complaints he had lodged with the TSP concerning the same.

2.3 The Central Public Information Officer⁷ provided the information available in their possession. Dissatisfied, the Respondent filed an appeal on 04th January, 2012. The appellate authority, noting that the CPIO had already furnished the required information, directed that a copy of the same be sent to the Respondent. Aggrieved, the Respondent filed a second appeal before the Central Information Commission⁸ on 30th March, 2012.

2.4 Subsequently, on 09th October, 2012, the Respondent filed another

⁵ "TRAI Act"

⁶ "DND"

⁷ "CPIO"



application with the Petitioner, seeking information regarding the status of his complaints filed with the TSP between 27th September 2011 and 07th October, 2012. However, as the requested information was not in the possession of the Petitioner, the CPIO informed the Respondent that TRAI does not maintain records of the actions taken by the TSP on the complaints received by them.

2.5 The Respondent filed an appeal against the aforementioned decision, arguing that the sought information fell within the scope of Section 2(f) of the RTI Act. The Appellate Authority rejected the appeal, stating that the information sought did not pertain to the functions and objectives of TRAI, and thus, the TSP could not be approached for the same. Aggrieved, the Respondent filed a second appeal against this order.

2.6 On 12th November, 2012, the Respondent filed a third RTI application, requesting details about the status of his DND registration and actions taken by Vodafone. The CPIO provided the available information in a letter dated 12th December, 2012. Dissatisfied, the Respondent filed an appeal, which was dismissed by the Appellate Authority, leading him to file a second appeal.

2.7 The CIC consolidated the three appeals and adjudicated the same through a common order dated 06th June, 2014, with the following observations:

“1. At the very outset, the Commission finds it relevant to revisit the contents of the RTI application in order to decide the nature of the information sought. The primary query of the applicant is to know the status of his complaints filed with VODAFONE Delhi under TCCCPR, 2010. The appropriate course of law has been followed by the applicant in lodging complaint before the service provider and upon non action on the part of the service provider, the applicant sought to know the Status/Action taken on all his complaints from the TRAI,

⁸ “CIC”



which happens to be the sole regulatory authority in such cases. In response thereto, as is evident from the records of the case, no information has been provided by the Respondent. **However, it is clear that the applicant has sought no interpretation of regulations.**

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5. The information sought by the applicant regarding the status of his complaints with the Vodafone company regarding UCC, as discussed above, clearly falls within the regulatory powers exercised by the TRAI and thus there can be no reason which prevents the TRAI from gathering the information from the service provider and providing the same to the applicant. None of the arguments except that of bulky and voluminous information sought by applicant weighing down on limited manpower resources of the public authority therefore seems to hold any merit. The Respondent have pleaded that the TRAI has limited manpower of only 168 employees and lacks the wherewithal to handle individual complaints. The Hon'ble High Court of Delhi in its decision dated 05.02.2014 [WP (C) No. 845/2014 Shail Sahni vs. Sanjeev Kumar & Ors.].

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7. Thus it becomes clear that under the RTI Act the Applicant, through the TRAI, can access the information, on the action taken by the service provider on his complaint as available and existing with the service provider, but **inaction on the part of the TRAI in redressal of his grievance can be agitated only before the appropriate forum viz. Consumer Disputes Redressal Forum.**

8. Before disposing of the Appeal, the Commission observes that while accessing or gathering information as sought by the Appellant in this case, is not opposed to the tenets of law, as emanates from the discussion above, the fact that providing bulky, voluminous or unnecessary and huge load of information will prove detrimental and hinder the normal course of activities of the Respondent. Be that as it may, the Commission holds that information regarding the complaints of the appellant as can be provided by the TRAI may be furnished to him. However discretion and judiciousness needs to be exercised in deciding the scope and ambit of the information to be furnished, considering the existence of a well established legal framework for redressal of grievances."

[Emphasis Supplied]

Petitioner's case

3. Aggrieved by the aforesaid impugned order, the Petitioner has



invoked the jurisdiction of this Court under Article 226 of the Constitution of India. In light of the aforementioned factual background, the Petitioner's contentions can be summarized as follows:

3.1 The information sought by the Respondent under the RTI Act, to the extent available and within the Petitioner's possession, has already been furnished.

3.2 A substantial portion of the Respondent's queries pertains to the interpretation of the Telecom Commercial Communications Customer Preference Regulations, 2010,⁹ which cannot be provided, being beyond the scope of the RTI Act.

3.3 The Respondent has also sought information regarding the status of complaints lodged with his TSP, Vodafone. However, such information is not maintained by TRAI and does not form part of its records. TRAI is neither obligated nor authorized to collect, collate, or create information afresh for an RTI applicant, as clarified by the Supreme Court in ***Central Board of Secondary Education and Anr. v. Aditya Bandopadhyay***.¹⁰

3.4 As per the judgement of this Court in ***TRAI v. Yash Pal***,¹¹ the Petitioner's authority to requisition information is limited to fulfilling its regulatory functions under Section 11 of the TRAI Act. Section 12(1) of the TRAI Act does not empower the Petitioner to address individual complaints made to TSPs.

3.5 With a workforce of merely 170 employees, the Petitioner does not have the capacity to manage or compile information regarding individual complaints lodged by customers with their respective TSPs.

3.6 The impugned order misinterpreted Sections 11 and 12 of the TRAI

⁹ "TCCCPR 2010"

¹⁰ MANU/SC/0932/2011.



Act, as well as Regulations 20, 21, and 22 of the TCCCPR 2010.

3.7 The CCI has erred by relying on the judgment in *Thalappalam Ser. Coop. Bank Ltd. v. State of Kerala*¹² to conclude that the information sought by the Respondent regarding the status of his complaint with the TSP falls within the regulatory authority of the Petitioner.

3.8 Furthermore, the CCI erred in asserting that TRAI's inaction can only be assailed before the Consumer Disputes Redressal Forum. The decisions, orders, or directions issued by TRAI can be challenged before the Telecom Disputes Settlement and Appellate Tribunal, constituted under Section 14 of the TRAI Act.

3.9 The appropriate remedy for the Respondent, if aggrieved by Vodafone's alleged inaction, is to pursue an appeal with the TSP's appellate authority, as provided under the Telecom Consumer Complaint Redressal Regulations, 2012.¹³ Filing an RTI application with TRAI or invoking the RTI Act to address such grievances is procedurally inappropriate and beyond the purview of the TRAI Act as well as the RTI Act.

Respondent's case

4. On the other hand, the Respondent has presented the following submissions:

4.1 The definition of 'information' under Section 2(f) of the RTI Act includes information related to any private body that can be accessed by a public authority under any law. Section 12(1) of the TRAI Act empowers the Petitioner to request any information or explanation from the TSPs regarding their affairs, as required by TRAI. Additionally, Section 13 grants the Petitioner the power to issue directions to TSPs for the effective

¹¹ 2013 SCC OnLine Del 4271.

¹² (2013) 16 SCC 82.



discharge of TRAI's functions under Section 11(1) of the TRAI Act. Accordingly, the Petitioner has the authority to access the information sought by the Respondent concerning Unsolicited Commercial Communications,¹⁴ which TSPs are obligated to maintain under the TCCCPR 2010.

4.2 The Petitioner can also invoke Section 5(4) of the RTI Act to seek the requisite information from the TSP, thereby fulfilling their statutory obligations under the RTI framework.

4.3 The information sought by the Respondent pertains to a matter of significant public interest, addressing the widespread nuisance of UCC, which impacts nearly 90 crore telecom subscribers—approximately 80% of India's population. The inaction of the Petitioner in enforcing the TCCCPR, 2010, not only aggravates this issue, but also has wider implications for the State. Ineffectual regulation leads to a loss of revenue that could otherwise be collected as penalties imposed on non-compliant TSPs.

4.4 The Respondent clarifies that the Petitioner is not required to generate, compile, or create the requested information. Rather, the duty and responsibility of the Petitioner is limited to directing the TSP to disclose the information already available in their records to the Respondent.

4.5 While the TCCCPR 2010 specifies the time frame within which TSPs are required to register complaints, this timeline is often not adhered to by the TSPs. On numerous occasions, the TSPs fail to even respond to the complaints lodged by individual users.

4.6 Section 22 of the RTI Act stipulates that the provisions of the Act take precedence over both the TRAI Act and the TCCCPR 2010. Consequently,

¹³ "TCCRR 2012"

¹⁴ "UCC"



unless the Petitioner can establish that the information sought by the Respondent in the RTI application falls within the exemptions under Section 8(1)(e) of the RTI Act, they are required to disclose the information to the Respondent.

4.7 Subsequent to the impugned order, the Respondent has filed an appeal before the Appellate Authority of the TSP, Vodafone as per the TCCRR 2012, however no action has been taken on the same.

4.8 The judgement in *TRAI v. Yash Pal* is distinguishable from the facts of the instant case.

Analysis and findings

5. The Petitioner assails the impugned order on two principal grounds. First, the direction requiring TRAI to obtain information from the TSP and furnish it to the Respondent under the RTI Act is said to exceed the bounds of TRAI's statutory authority. Second, the observation that grievances concerning TRAI's alleged inaction can only be addressed before the Consumer Disputes Redressal Forum is contended to be unsustainable within the statutory framework governing TRAI's functions.

Supply of information under the RTI Act

6. A review of the RTI applications submitted by the Respondent reveals that the information sought pertained to diverse issues. The CPIO responded to several of these queries and provided the available information, except for a few items. The queries for which information was not furnished can be classified into two broad categories: (i) queries pertaining to the status of the Respondent's complaints lodged with the TSP, Vodafone; and (ii) requests seeking TRAI's interpretation of the term 'days' as used in the TCCCPR 2010.



7. The Respondent's request for interpretation of the TCCCPR 2010 is evidenced from the following queries in his first RTI Application dated 12th October, 2011:

- “1. It is mentioned that "On successful registration, customer will receive and SMS confirming exercised option and a Unique Registration Number within 24 hrs. The registration will be effective **within 7 days** of placing the request with the service provider." Please inform me that whether these 7 days are (a) 7 working days or (b) 7 calendar days. In case it is working day then whether the day off at Head office of Authority is to be considered or day off at respective Stat office is to be considered for calculating the 7 working days.
2. Is is mentioned that "Customer can also change the preferences after **7 days** of registration of the last change of preference". So please inform again that these 7 days are 7 working days or 7 calendar days.
3. It is mentioned that "If customer receives UCC even after **7 days** or registration, he can register a complaint with his service provider within **3 days** of receipt of such UCC". Please inform that these 7 days and 3 days are the working days or calendar days.
4. It is mentioned that "Service Provider will take action on complaint and inform the complainant **within 7 days** of lodging complaint". So please inform that these 7 days are 7 working days or 7 calendar days.
5. My service provider VODAFONE is interpreting number of days of point number 4 above as "working days" and not as "Calendar days". This is after talking to the Executive of service provider on 1909. Whether the information given by the executive of VODAFONE to all their customer, who call up at 1909, is correct information or not. If information is not correct, then what is being done by TRAI to check such practices of incorrect information provided by service provider to their customers, and similarly other service providers may also is doing the same way so what does TRAI is doing to check this incorrect practice.”

8. The Respondent's request concerning the status of his complaints with Vodafone can be seen from the following excerpts:

- “9. What is the stats of all my 11 complaints lodged with the Terminating access Provider and as mentioned in the table above.



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11. *What action has been taken by the Terminating Access Provider as well the Originating Access Provider against the unsolicited calls/ SMS received by me and as mentioned in the table above."*

9. To evaluate the legality of the CIC's directives, it is apposite to first delineate the scope of TRAI's authority under the TRAI Act in relation to the information sought. TRAI was established with the primary objective of regulating telecommunication services, resolving disputes, protecting the interests of TSPs as well as consumers of telecom sector, and promoting orderly growth of the telecom sector. Section 11 of the TRAI Act outlines the functions and responsibilities of the Petitioner, while Section 12(1)(a) empowers TRAI to requisition information or explanations from TSPs regarding their operations, provided such a request is expedient for fulfilling TRAI's statutory functions.

Respondent's complaints filed with TSPs

10. The Petitioner contends that addressing individual complaints of telecom subscribers lodged with their respective TSPs does not fall within their statutory responsibilities or functions. They argue that the information sought by the Respondent, relating to his complaints filed with Vodafone, is neither maintained by the Petitioner, nor forms part of their records. However, the CIC, in Paragraph No. 7 of the impugned order, rejected this submission, observing that the Petitioner, under the RTI Act, can access information on the action taken by the TSP regarding the Respondent's complaints, as available and existing with the TSP.

11. Section 2(f) of the RTI Act defines "information" to include *"information relating to any private body which can be accessed by a public*



authority under any other law for the time being in force.” The Petitioner, as a public authority, operates within the framework of the TRAI Act, which governs its powers and functions. Section 12(1) of the TRAI Act empowers TRAI to requisition information or explanations from TSPs, but this authority is circumscribed by statutory limits. As clarified by this Court in ***Yash Pal***, this power can only be exercised if the information sought is required for the efficient discharge of TRAI’s regulatory functions delineated under Section 11 of the TRAI Act. The relevant observation of this Court in ***Yash Pal*** is as follows:

*“3. Section 2(f) of the Right to Information Act defines ‘Information’ to mean, inter alia, any information relating to any private body which can be accessed by Public Authority under any law for the time being in force. Section 12(1) of the TRAI Act, 1997 empowers the said Authority, if considered expedient by it to do so, inter alia, to call upon any Service Provider to furnish in writing such information or explanation relating to its affairs as the Authority may require. The functions of the Authority are prescribed in Section 11 of the aforesaid Act. I find merit in the contention of the learned counsel for the petitioner that the power to call for information or explanation from the Service Provider can be exercised by the Authority only if such information or explanation is required for discharge of the functions assigned to it. **The aforesaid power, in my view, cannot be exercised for the purposes which are alien to the functions of the Authority specified in Section 11 of the Act. Taking a contrary view will lead to the Authority assuming unbridled power to call for information from a Service Provider irrespective of whether such information is necessary for an efficient discharge of the functions assigned to the Authority or not.**”*

[Emphasis supplied]

12. The information sought by the Respondent regarding the status of his complaints lodged with Vodafone, does not pertain to TRAI’s regulatory functions under Section 11. Rather, it arises from the Respondent’s personal grievance relating to inaction by the TSP. Section 12(1) of the TRAI Act does not empower the Petitioner to requisition customer data from TSPs for the resolution of individual complaints. Moreover, the TCCCPR 2010, does



not obligate TRAI to collect or maintain information relating to individual customer grievances lodged with TSPs.

13. The Supreme Court in *CBSE case* held that a public authority is obligated to disclose only the information it possesses or controls. It is neither required to collect information from a private entity, nor to compile or create information to satisfy an RTI applicant. Applying this principle, the Petitioner is under no legal obligation to collect, compile, or generate the information sought by the Respondent, which is neither a part of their records nor statutory functions.

14. Furthermore, requiring TRAI to retrieve information about individual complaints from TSPs would impose an impractical and onerous burden on the Petitioner. With a workforce of merely 170 employees, the Petitioner lacks the operational capacity to manage or compile data related to the grievances of over 900 million telecom subscribers. Such an obligation would detract from the Petitioner's core regulatory mandate and disrupt its efficient functioning. As observed in *Yash Pal*, TRAI's statutory functions are regulatory and policy-oriented, not grievance-driven. Imposing such a task on the Petitioner would not only strain their limited resources, but also exceed their statutory responsibilities.

15. Considered in the light of the foregoing analysis, the operative portion of the CIC's directions in Paragraph No. 8 of the impugned order, which acknowledges the need to avoid overburdening the Petitioner, appears well-intentioned. However, the subsequent directive fails to account for the statutory limitations of TRAI's mandate. The Petitioner's regulatory functions under the TRAI Act do not encompass addressing individual grievances or requisitioning customer-specific data from TSPs for dissemination under the RTI Act. Therefore, while the emphasis on



exercising discretion and judiciousness in furnishing information is valid, it cannot override the statutory constraints that define TRAI's authority.

Interpretation of the TCCCPR

16. The CIC, in Paragraph No. 1 of the impugned order, observed that the Respondent had not sought any interpretation of the Regulations. However, a closer examination of the Respondent's queries outlined above, reveals that a substantial portion of his inquiries pertains to the interpretation of the term 'days' as used in the TCCCPR 2010, as well as assailing the interpretation of this term by the TSP, Vodafone. Here, we must emphasise that the scope of the RTI Act does not extend to the provision of interpretations, inferences, or explanations. As clarified by the Supreme Court in *Khanapuram Gandaiah v. Administrative Officer*,¹⁵ a public authority, under the provisions of the RTI Act, is not required to provide opinions, justifications, or explanations concerning its decisions, or the reasons for taking or not taking a particular action. Such matters fall within the purview of adjudicating authorities and do not constitute "information" under the RTI Act.¹⁶ Furthermore, the public authority is not required to disclose information that requires drawing inferences or making assumptions.¹⁷

17. The RTI Act requires the disclosure of information "*held by or under the control of*" a public authority, as defined in Section 2(f). It does not extend to compelling public authorities to interpret regulations or adjudicate disputes arising from the interpretation of such regulations by private entities. Questions regarding the correctness or validity of Vodafone's interpretation of the TCCCPR fall within the jurisdiction of adjudicating

¹⁵ (2010) 2 SCC 1.

¹⁶ Celsa Pinto v. The Goa State Information Commission, MANU/MH/0354/2008.



authorities, beyond the purview of the RTI Act. The Petitioner's role as a regulator under the TRAI Act does not include acting as an interpreter of its regulations particularly when framed as an RTI query.

18. Thus, while the CIC observed that the Respondent had not sought an interpretation of the Regulations, the final direction, requiring the Petitioner to provide the requested information—effectively compels the Petitioner to interpret the term 'days' and offer an opinion on Vodafone's interpretation of the same. Such a direction is contrary the statutory framework of the RTI Act, which does not mandate public authorities to engage in giving interpretations or opinions.

19. The CIC, in Paragraph No. 3 of the impugned order, erred in relying on *Thalappalam* to conclude that the information sought by the Respondent regarding the status of his complaints with Vodafone falls within TRAI's regulatory purview. This reliance is misplaced. The case in *Thalappalam* involved a cooperative society, which, as part of its regular functioning, collects and maintains specific information about its members. The Court, in that context, held that such information could be accessed under the RTI Act since it was inherently within the control of the cooperative society. In the present case, however, TRAI, as a regulatory authority, is not required to maintain or collect data concerning individual complaints lodged by customers with their TSPs.

20. The Respondent's argument that the information sought, pertains to a matter of public interest is also unpersuasive. While Section 8 of the RTI Act allows for the disclosure of exempted information in cases where public interest justifies it, such an exception applies only to information that is otherwise permissible for disclosure under the Act. In the present case, as

¹⁷ Central Board of Secondary Education and Anr. v. Aditya Bandopadhyay, MANU/SC/0932/2011.



previously discussed, the information sought by the Respondent does not fall within the ambit of what the Petitioner is obligated to provide under the RTI Act. Consequently, the argument of public interest cannot override the statutory limitations of the Act, nor can it entitle the Respondent to access information that is not covered by its provisions.

Remedy against TRAI to lie with the Consumer Disputes Redressal Forum

21. In Paragraph No. 7 of the impugned order, the CIC observed that the Respondent could seek redress for grievances concerning the alleged inaction of the Petitioner Authority “*only before the appropriate forum, viz. Consumer Disputes Redressal Forum.*”

22. The Consumer Disputes Redressal Forum is established under the Consumer Protection Act to resolve disputes between consumers and service providers. However, TRAI, being neither a service provider nor a consumer, falls outside the ambit of this forum. TRAI is a statutory body constituted under the TRAI Act, which provides for a distinct dispute resolution mechanism. Section 14 of the TRAI Act specifically empowers the Telecom Disputes Settlement and Appellate Tribunal¹⁸ to adjudicate disputes involving decisions, orders, or directions issued by TRAI. That said, the CIC’s observations on the forum for addressing grievances are beyond the scope of its jurisdiction under the RTI Act. The CIC’s mandate is confined to deciding issues relating to the accessibility of information under the RTI Act, and does not extend to offering opinions or making recommendations on forums where grievances against statutory authorities can be pursued.

23. Therefore, CIC’s remarks on the appropriateness of the Consumer Disputes Redressal Forum as a remedy for grievances against TRAI exceed

¹⁸ “TDSAT”



its statutory role under the RTI Act. Such comments are not only unwarranted, but also legally untenable, as they encroach upon matters unrelated to the CIC's mandate of determining access to information. Allowing the CIC to make observations on remedies outside the RTI framework risks creating confusion and misdirection for aggrieved parties. The statutory remedy for grievances concerning TRAI's actions or inactions lies exclusively with TDSAT, as provided under the TRAI Act. The CIC's reference to the Consumer Disputes Redressal Forum not only disregards this specialized mechanism, but also undermines the legislative intent behind creating TDSAT as the forum for resolving such disputes.

24. In view of the above, the CIC's remarks regarding the Consumer Disputes Redressal Forum are beyond its statutory authority and must be disregarded.

Conclusion

25. In conclusion, the Court finds merit in the Petitioner's challenge to the impugned order. The CIC erred in directing TRAI to requisition information from the TSP, Vodafone, and provide it to the Respondent under the RTI Act. TRAI's authority to request information from TSPs is confined to fulfilling its regulatory functions under the TRAI Act and the TCCCPR 2010. It does not extend to addressing individual grievances or accessing customer-specific information solely for dissemination under the RTI framework.

26. The Court further finds that the CIC's observation requiring the Respondent to seek redressal before the Consumer Disputes Redressal Forum was misplaced and beyond its statutory mandate. TRAI is not a service provider or a consumer under the Consumer Protection Act, and any



grievance against TRAI's actions or inactions must be pursued before the TDSAT, as established under the TRAI Act. By making observation and issuing directions unrelated to the scope of the RTI Act, the CIC undermined the legislative framework governing the resolution of telecom disputes.

27. In view of the foregoing, the petition is allowed, and the impugned order is set aside.

28. It must be mentioned that this Court acknowledges the larger issue of unsolicited commercial communications raised by the Respondent, which impacts a substantial portion of the population. The Court notes that the Respondent has pursued remedies available under the TCCRR 2012, by filing an appeal before the Appellate Authority of Vodafone. However, the adjudication of that appeal falls outside the scope of the present proceedings. Nothing in this judgment should be construed as expressing any view on the merits of the Respondent's grievances or the said appeal, which must be decided independently and in accordance with the applicable legal framework.

29. With the aforesaid directions, the present petition is disposed of.

SANJEEV NARULA, J

JANUARY 7, 2025

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